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BRIAN R. WOODWORTH			EXAMINER	
275 N. FIELD DRIVE			RINES, ROBERT D	
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LAKE FOREST, IL 60045-2579				
		ART UNIT		PAPER NUMBER
		3623		
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		03/18/2011		ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/783,649

Applicant(s)

HOLLAND ET AL.

Examiner

R. David Rines

Art Unit

3623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

[1] This communication is in response to the amendment filed 7 January 2011. It is noted that this application benefits from Provisional Patent Application Serial No. 60/509,404 and 60/527,583 filed 7 October 2003 and 5 December 2003, respectively. Claims 1-11 and 13-14 have been cancelled. Claim 12 has been amended. Claim 17 has been newly entered. Claims 12 and 15-17 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[2] Claims 12, 15, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggers et al. (United States Patent Application Publication #2006/0106649) in view of Engleson et al. (United States Patent #7,117,041), and further in view of Schlager et al. (United States Patent #5,461,365).

With respect to (currently amended) claim 12, Eggers et al. disclose a method for tracking a portable medical device that is movable to and reusable in a plurality of physical location in connection with a plurality of patients and connectable with an electronic network having one or more access nodes, comprising: determining the last access node used by a medical device and reporting the last used access node to a medication management unit (Eggers et al; paragraphs [0056]-[0058]); determining the last known general physical location of a medical device based on the last access node used by the medical devices as reported at the medication management unit (Eggers et al; paragraphs [0056]-[0058]).

With respect to the "determining the last access node" step to further include "...reporting the last used access node to a medication management unit that is remote from the medical device and connectable with the electronic network..." and the displaying step to further specify that the recited "access device" is "...located remotely from the medication management unit and the medical device...", both Eggers et al. and Engleson et al. disclose tracking the medical device via the network and reporting the location to a central device/medication management unit (see Eggers et al.; paragraphs [0056]-[0058] and Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14. Engleson et al. further disclose displaying the last known general physical location of a medical device at a user access device, based on a report from the medication management unit (Engleson et al. col. 10, lines 45-67, col. 11, lines 1-14 *see display of hospital map). Engleson et al. further disclose that the status of the equipment can be ascertained from the nurses CPU

(Engleson et al.; col. 10, lines 23-45). Examiner considers the nurses CPU to be an access device remote from the medication management unit.

With respect to the recitation of "activating and emitting" step to further recite; "...activating and emitting an audio location alarm from the medical device in response to an audio location alarm request from the user access device relayed through the medication management unit such that the medical device audibly broadcasts the audio location alarm at a then current and specific physical location of the medical device regardless of position relative to another medical device..."

With respect to the medical device reporting its location, Engleson et al. disclose that the system "maintains a record of the current or last known location within the institution, such as an infusion pump or vital sign sensor.....the status of that equipment can be easily ascertained from a video display connected to the nursing CPU..." (Engleson et al.; col. 10, lines 45-62). Engleson further disclose a system capable of emitting alarms and alerts and further displaying those alerts (Engleson et al.; col. 10, lines 23-45).

Claim 12 as presented by amendment recites "...moving with the user access device to the last known general physical location of the medical device..." and "if upon, proceeding with the user access device to the last known general physical location of the medical device, the medical device is one of absent, commingled with other medical devices, and hidden from view such that the last access node used by the medical device as reported at the medication management unit is

insufficient to determine the current location of the medical device then: transmitting an audio alarm message from the user access device to the medication management unit; in response to receipt of the request audio alarm message, transmitting an order audio locator alarm message from the medication management unit to the medical device...”

Initially, Examiner notes that the limitations including the physically locating the device and trigger an audible alarm to locate the device are conditional statements. Optional or conditional elements do not narrow claims because the can always be omitted. “As a matter of linguistic precision, optional element do not narrow the claim because they can always be omitted” In re Johnson, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir 2006).

As per the elements added by amendment and presented conditionally, Eggers and Engleson et al. disclose determining and displaying the location of the device and alerts and alarms associated with the device, Engleson et al. fail to specifically disclose a medical device that emits audibly alarms.

However, portable medical devices equipped in communication with remote monitoring units and further equipped with an audible beacon which can be activated from a base station are well known in the art, as evidenced by Schlager et al. (Schlager et al.; Abstract *see audible beacon on remote unit can be activated from the base station).

Schlager accordingly teaches the feature added by amendment of the last access node used by the medical device as reported at the medication management unit is insufficient to determine the current location of the medical device then: transmitting an audio alarm message from the user access device to the medication management unit; in response to receipt of the request audio alarm message, transmitting an order audio locator alarm message from the medication management unit to the medical device...”

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device locating features of Eggers to further display the location of the device in the tracking and monitoring of clinical devices as taught by Engleson. As the respective references are reasonably considered analogous art and the teachings are applied in the manner disclosed by the respective references, one of ordinary skill in the art would have been motivated to make the noted combination/modification by combining prior art elements accordingly to known methods to yield the predictable results of displaying the location of the network equipped device.

Regarding the combination that further includes Schlager et al., it would have been obvious to modify the location features of Eggers with the well known technique of triggering an audible alarm from a remote base station as taught by Schlager et al. As the respective teachings are reasonably considered analogous art and the teachings are applied as disclosed in the respective references, one of ordinary skill in the art would have been motivated to make the noted modification by combining prior art elements accordingly to known methods to yield the

predictable results of triggering an audible alert from for the purpose of finding/locating the remote unit.

A per claim 15, Engleson et al. disclose a system wherein the medical device is selected from a group of medical devices consisting of a medical pump, a medical diagnostic device, and a patient vital signs monitor (Engleson et al.; col. 6, lines 38-50 col. 10, lines 45-60 *see infusion pump or vital sign sensor).

As per claim 16, while Engleson et al. disclose alarms and alerts, Engleson et al. fail to teach a delayed alert.

However, portable medical devices equipped in communication with remote monitoring units and further equipped with an audible beacon which can be activated from a base station are well known in the art, as evidenced by Schlager et al. (Schlager et al.; Abstract *see audible beacon on remote unit can be activated from the base station).

Regarding claims 15-16, the conclusions obviousness and statements of motivation as discussed with regard to claim 12 above are applicable to claims 15-16 and are herein incorporated by reference.

Newly added claim 17 substantially repeats the limitations of claim 12 as presented by amendment. Accordingly, claim 17 is rejected for the reasons, conclusions of obviousness, and statements of motivation as provided above for claim 12.

Response to Remarks

[3] Applicant's amendments to claim 12 and newly entered claim 17 necessitated a new grounds of rejection. The remarks filed 7 January 2011 have been fully considered but they are moot in view of newly added grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/
Primary Examiner, Art Unit 3623